

# **Texas State Board of Plumbing Examiners (TSBPE)**

Board Meeting Minutes

April 18, 2016

Location: 929 East 41<sup>st</sup> St., Austin, Texas

## **Agenda Item 1 - Call to Order**

Chair Cerda called the meeting to order at 9:00 a.m.

## **Agenda Item 2 - Roll Call**

Chair Cerda asked Ms. Zamarripa to call roll. All Board members, except Thomas Freeman and David A. Garza, were present.

## **Agenda Item 3 - Recognize new Board Members, staff and visitors**

Chair Cerda asked Executive Director Lisa Hill to introduce herself, new Board members, guests and staff.

## **Agenda Item 4 - Adopt the January 11, 2016 Board Meeting Minutes**

Chair Cerda directed the Board to the minutes under Item 4 of the Board materials. Mr. Guerra moved to adopt the minutes of the January 11, 2016 Board meeting, Mr. Thompson seconded the motion and the motion carried.

## **Agenda Item 5 - Public Comment**

The following individuals, associations and organizations requested to comment. Comments were limited to a maximum of 3 minutes.

Julian Alvarez, Commissioner of Labor, Texas Workforce Commission – Commissioner Alvarez introduced himself to the Board and stressed his availability. Commissioner Alvarez is especially interested in developing apprenticeship programs across the state.

Stanley Briers, TX PAMCA & ICE – Mr. Briers introduced himself and welcomed the Chair and new members of the Board.

Robert Doran, PCE – Mr. Doran described to the Board a program he is working on to recruit veterans from the Dallas-area into the plumbing industry.

Alicia Dover, PHCC Texas – Resource only.

Matthew Winn – Resource only.

Steven Hanson, Owner, Magnum Plumbing Company – Mr. Hanson expressed his concern about the fees and requirements for maintaining a Responsible Master Plumber designation and maintaining a Master Plumber License for someone over the age of 65.

Dolores Bussey, Homeowner – Ms. Bussey explained her concerns about a complaint she had filed with the Board regarding a plumbing company in the Austin-area. Ms. Hill explained the Board's complaint process and explained that the investigation process is ongoing.

#### Agenda Item 6 - Enforcement Committee Report - Lisa G. Hill, Chair

##### Agenda Item 6(a) - Report of meetings

Ms. Hill directed the Board to the report of meetings under item 6(a) of the Board materials. Ms. Hill reported that the Enforcement Committee had met on 6 occasions in the last quarter to review applicants for registration and examinations who have past criminal convictions and to review enforcement complaint cases. Ms. Hill confirmed the number of applications reviewed and the outcome of the reviews. Ms. Hill also stated the number of complaint cases reviewed and administrative penalties imposed, including the types of violations.

##### Agenda Item 6(b) - Review and approval of administrative penalties

Ms. Hill directed the Board to the Order for Imposition of Administrative Penalties and explained the adoption of the Order for Administrative Penalties to the Board members. Ms. Hill explained that the Administrative Penalties included in the Order are the result of an agreement made under the Board's Administrative Penalty Schedule between the Respondent and the Enforcement Committee. Ms. Hill then directed the Board to the report of previous violators related to the Order for Imposition of Administrative Penalties. (Exhibit included)

Mr. Thompson moved to adopt the Board Order for Imposition of Administrative Penalties as recommended by the Enforcement Committee. Ms. Gallagher seconded the motion and the motion carried unanimously.

##### Agenda Item 6(c) - Consideration and possible approval of applications for individuals whose licenses or registrations were previously revoked and are re-applying for registration or examination under Board Rule Section 365.10:

Ms. Hill explained that the individuals being considered today had previously held a license or registration that was revoked due to incarceration for a felony conviction. Ms. Hill stated that the Enforcement Committee is recommending approval of the following applicants.

##### Agenda Item 6(c)(1) Bobby D. Glover (Entity 375377) – Requesting to take the Journeyman Plumber Examination

Ms. Hill directed the Board to the application and documentation submitted by Mr. Glover under Item 6(c)(1) of the Board materials. Mr. Glover addressed the Board and explained the events that led to his problems.

Mr. Thompson moved to approve Mr. Glover's application for Journeyman Plumber Examination.

Mr. Guerra seconded the motion and the motion carried unanimously.

##### Agenda Item 6(c)(2) - Chance R. Johnson (Entity 740043) – Applying for a Plumber's Apprentice Registration

Ms. Hill directed the Board to the application and documentation submitted by Mr. Johnson under Item 6(c)(2) of the Board materials. Mr. Johnson addressed the Board and explained the events that led to his problems.

Ms. Gallagher moved to approve Mr. Johnson's application for registration as a Plumber's Apprentice. Mr. Thompson seconded the motion and the motion carried unanimously.

Agenda Item 6(c)(3) - Bryan A. Pechacek (Entity 419018) – Requesting to take the Journeyman Plumber Examination

Ms. Hill directed the Board to the application and documentation submitted by Mr. Pechacek under Item 6(c)(3) of the Board materials. Mr. Pechacek addressed the Board and explained the events that led to his problems.

Mr. Thompson moved to approve Mr. Pechacek application for Journeyman Plumber Examination. Mr. Guerra seconded the motion and the motion carried unanimously.

Agenda Item 6(d) - Consideration and possible action on SOAH Proposals for Decision:

Ms. Hill asked for presentation of agenda items 6(d)(1-4) by Assistant Attorney General Ms. Mohan.

Agenda Item 6(d)(1) - Kym Austin; Docket No. 456-16-0933

Ms. Mohan explained the SOAH Proposal for Decision for Kym Austin; Docket No. 456-16-0933 under Item 6(d)(1) of the Board materials. The Enforcement Committee recommends that the Board adopt the Proposal for Decision as written.

Mr. Guerra moved to adopt the SOAH Proposal for Decision for Kym Austin, Docket N. 456-16-0933 as issued. Ms. Gallagher seconded the motion and the motion carried unanimously.

Agenda Item 6(d)(2) - Larry Bailey; Docket No. 456-16-0612

Ms. Mohan explained the SOAH Proposal for Decision for Larry Bailey; Docket No. 456-16-0612 under Item 6(d)(2) of the Board materials. The Enforcement Committee recommends that the Board adopt the Proposal for Decision as written.

Mr. Friedman moved to adopt the SOAH Proposal for Decision for Larry Bailey; Docket No. 456-16-0612 as issued. Mr. Thompson seconded the motion. After discussion, the motion carried unanimously.

Agenda Item 6(d)(3) - Yigal Buzaglo; Docket No. 456-15-5052

Ms. Mohan directed Staff Attorney Helen Kelley to explain Item 6(d)(3). Ms. Kelley explained a final Proposal for Decision had not been issued in the case against Yigal Buzaglo; Docket No. 456-15-5052. Based on this, Ms. Kelley recommends the Board table Item 6(d)(3).

Mr. Thompson moved to table Item 6(d)(3). Ms. Gallagher seconded the motion and the motion carried unanimously.

Agenda Item 6(d)(4) - Kenneth E. Lee; Docket No. 456-16-1098

Ms. Mohan explained the SOAH Proposal for Decision for Kenneth E. Lee; Docket No. 456-16-1098 under Item 6(d)(4) of the Board materials. The Enforcement Committee recommends that the Board adopt the Proposal for Decision as written.

Mr. Guerra moved to adopt the SOAH Proposal for Decision for Kenneth E. Lee; Docket No. 456-16-1098 as issued. Mr. Thompson seconded the motion and the motion carried unanimously.

Agenda Item 6(d)(5) - Zackery T. Lee; Docket No. 456-16-1082

Ms. Mohan explained the SOAH Proposal for Decision for Zackery T. Lee; Docket No. 456-16-1082 under Item 6(d)(5) of the Board materials. The Enforcement Committee recommends that the Board adopt the Proposal for Decision as written.

Ms. Gallagher moved to adopt the SOAH Proposal for Decision for Zackery T. Lee; Docket No. 456-16-1082 as issued. Mr. Guerra seconded the motion and the motion carried unanimously.

Agenda Item 6(e) - Consideration and possible action on Default Judgment Orders:

Ms. Mohan presented Items 6(e)(1-4) to the Board.

Agenda Item 6(e)(1) - Glen Aviles; Docket No. 456-16-0781

Ms. Mohan explained the SOAH Default Judgment Order for Glen Aviles; Docket No. 456-16-0781 under Item 6(e)(1) of the Board materials. The Enforcement Committee recommends that the Board adopt the Default Judgment Order as written.

Mr. Guerra moved to adopt the SOAH Default Judgment Order for Glen Aviles; Docket No. 456-16-0781 as issued. Mr. Jalnos seconded the motion and the motion carried unanimously.

Agenda Item 6(e)(2) - Lonnie R. Goins; Docket No. 456-16-1304

Ms. Mohan explained the SOAH Default Judgment Order for Lonnie R. Goins; Docket No. 456-16-1304 under Item 6(e)(2) of the Board materials. The Enforcement Committee recommends that the Board adopt the Default Judgment Order as written.

Mr. Jalnos moved to adopt the SOAH Default Judgment Order for Lonnie R. Goins; Docket No. 456-16-1304 as issued. Mr. Guerra seconded the motion and the motion carried unanimously.

Agenda Item 6(e)(3) - Carlos Reboloso; Docket No. 456-16-2059

Ms. Mohan explained the SOAH Default Judgment Order for Carlos Reboloso; Docket No. 456-16-2059 under Item 6(e)(3) of the Board materials. The Enforcement Committee recommends that the Board adopt the Default Judgment Order as written.

Mr. Guerra moved to adopt the SOAH Default Judgment Order for Carlos Reboloso; Docket No. 456-16-2059 as issued. Ms. Gallagher seconded the motion and the motion carried unanimously.

Agenda Item 6(e)(4) - Edward L. Sugg; Docket No. 456-15-5073

Ms. Mohan explained the SOAH Default Judgment Order for Edward L. Sugg; Docket No. 456-15-5073 under Item 6(e)(4) of the Board materials. The Enforcement Committee recommends that the Board adopt the Default Judgment Order as written.

Mr. Guerra moved to adopt the SOAH Default Judgment Order for Edward L. Sugg; Docket No. 456-15-5073 with the amendment changing the penalty from \$4,000 to \$3,000. Mr. Thompson seconded the motion and the motion carried unanimously.

Agenda Item 6(f) - Consideration and possible adoption of Agreed Final Orders:

Ms. Mohan thanked the Board and asked Staff Attorney Helen Kelley to present the Agreed Final Orders to the Board.

Agenda Item 6(f)(1) - Russell J. Davidson; Agreed Final Order No. 2016-00314

Ms. Kelley directed the Board to the Agreed Final Order for Russell J. Davidson under Item 6(f)(1) and explained the terms of the Order between the respondent and the Enforcement Committee. Ms. Kelley explained

Mr. Davidson agreed to resolve the case without a SOAH hearing. The Enforcement Committee is recommending adoption of the Agreed Final Order for Russell J. Davidson, as written. After discussion and with Mr. Davidson's agreement, Mr. Thompson made a motion to amend the \$5,000 penalty assessed to be paid in 10 installments of \$500. Mr. Friedman seconded the motion and the motion carried unanimously.

Agenda Item 6(f)(2) - Michael E. McCollum; Agreed Final Order No. 2016-01132

Ms. Kelley directed the Board to the Agreed Final order for Michael E. McCollum. Ms. Kelley recommended tabling Item 6(f)(2) as new information on the matter requires additional review. Mr. Thompson made a motion to table Item 6(f)(2). Ms. Gallagher seconded the motion and the motion carried unanimously.

Agenda Item 6(f)(3) - Mark D. McGaughy; Agreed Final Order No. 2015-01704

Ms. Kelley directed the Board to the Agreed Final Order for Mark D. McGaughy under Item 6(f)(3) and explained the terms of the Order between the respondent and the Enforcement Committee. Ms. Kelley explained Mr. McGaughy agreed to resolve the case without a SOAH hearing. The Enforcement Committee is recommending adoption of the Agreed Final Order for Mark D. McGaughy, as written.

Mr. Jalnos made a motion to adopt the Agreed Final Order as written. Mr. Guerra seconded the motion and the motion carried unanimously.

Agenda Item 6(f)(4) - Alejandro Puga; Agreed Final Order No. 2016-00715

Ms. Kelley directed the Board to the Agreed Final Order for Alejandro Puga under Item 6(f)(4) and explained the terms of the Order between the respondent and the Enforcement Committee. Ms. Kelley explained Mr. Puga agreed to resolve the case without a SOAH hearing.

The Enforcement Committee is recommending adoption of the Agreed Final Order for Alejandro Puga, as written.

Ms. Gallagher made a motion to adopt the Agreed Final Order as written. Mr. Jalnos seconded the motion and the motion carried unanimously.

Agenda Item 6(f)(5) - Colby Shaddinger; Agreed Final Order No. 2016-01267

Ms. Kelley directed the Board to the Agreed Final Order for Colby Shaddinger under Item 6(f)(5) and explained the terms of the Order between the respondent and the Enforcement Committee.

Ms. Kelley explained Mr. Shaddinger agreed to resolve the case without a SOAH hearing. The Enforcement Committee is recommending adoption of the Agreed Final Order for Colby Shaddinger, as written.

Mr. Guerra made a motion to adopt the Agreed Final Order as written.

Mr. Thompson seconded the motion and the motion carried unanimously.

## Agenda Item 7 - Continuing Professional Education (CPE) Committee Report

Ms. Hill explained the requirements for CPE Course Providers and Instructors and noted this year's applicants have met at least the minimum requirements to instruct for the 2016-2017 CPE Course year.

### Agenda Item 7(a) Consideration and possible approval of 2016-2017 CPE Course Providers:

Agenda Item 7(a)(1) - Conger Construction Services, LLC.

Agenda Item 7(a)(2) - Professor Plumb

Mr. Thompson made a motion to approve all the CPE Instructors listed on Items 7(a)(1)-(2).

Mr. Jalnos seconded the motion and the motion carried unanimously.

### Agenda Item 7(b) - Consideration and possible approval of 2016-2017 CPE Course Instructor Applications submitted by the following CPE Providers:

Agenda Item 7(b)(1) - A-ACES: John Stephen Fain, Jose S. Gallardo, Frank Reyes Jr., Dianne Villarreal, James Arden Walls, Russell Wyman

Agenda Item 7(b)(2) - APHCCT: David Alexander, Richard Anderson, Arthur Eugene Callahan, Larry Joe Davis, Darrell D. Dudley, James Fowler, Todd Robert Iocco, Michelle Killebrew, Justin Lowe, Monty Dale Lowell, Peter Louis Nanos Jr., Keith Powers, Kevin L. Robinson, John C. Sampson, Jr., Jeremy R. Sartor, Alma Gloria Solis, Salvador Soto, Jr., Robert Vernon Stricker, William R. White

Agenda Item 7(b)(3) - Christianson Company: George W. Davis, Jr., Michael Dennis Nail

Agenda Item 7(b)(4) - Conger Construction Services, LLC.: Mary Conger

Agenda Item 7(b)(5) - IAPMO: John T. Jordan, Jr., John Anthony Mata

Agenda Item 7(b)(6) - Kurten, Johnny: Johnny Ray Kurten

Agenda Item 7(b)(7) - Murphy, Debbie: Debbie A. Murphy

Agenda Item 7(b)(8) - Pioneer Educational Services, Inc.: Cary B. Everett, Andrew McKinzie, Dennis Dwayne McKinzie, Dennis McKinzie Jr., Jay Parr, Phillip E. Sanders, John Soto, David M. Swatek, Pat Willburn

Agenda Item 7(b)(9) - Plumber Trainer: Larry Adams, Richard Greg Babineaux, Austin Taylor, David A. Wark, Joseph E. Wark

Agenda Item 7(b)(10) - Plumbers Continuing Education, Inc. (PCE): Robert David Doran, Williams S. Heuberger, Johnny L. Horton, Chester Frank Lilly, Phillip Pourteau, John Self Jr., Christopher A. Smith, Gilbert E. Urvina

Agenda Item 7(b)(11) - Professor Plumb: James Merriman

Agenda Item 7(b)(12) - Pulaski, Richard: Richard E. Pulaski

Agenda Item 7(b)(13) - Texas PAMCA: Clyde O. Lackey, Jr., Richard E. Pulaski, John David Richardson

Agenda Item 7(b)(14) - Texas Pipe Trades: Leonard Aguilar, Angel C. Benavides, James C. Berendzen, Jason Brooks, Selmer Ray Burgess, Craig A. Burk, Guadalupe Castillo, Jr., Joseph Cooper, Robert Lawrence Cross, William C. Dowden, Ronnie W. Drake, Michael S. Ferrell, Jaime E. Gomez, Othon Guillen, Paul Harrison II, Dale Leroy Hoff, Jr., John T. Jordan, Jr., Glen Kirkham, Russell Logan, Don G. Masten, Michael McClintock, Joseph Bishop, Meier, John I. Miller, Joe Vernon Milstead, Dennis Lynn Minnich, Christopher M. Morris, Sidney A. Morris, Bryan J. Morrow, Arthur L. Parris, Deric E. Perry, Jayme Rigby, John H. Robinson, Timothy L. Sandusky, Samuel Santos, Glenn R. Schmidt, Howard W. Shannon, Glen Sheppard, Cassidy S. Spell, Charles W. Stanley, Jr., Claude L. Sullivan III, Robert Anthony Taylor, Robert Chapman Thornton, John W. Vanek, Debbie J. Vukovich, Scott H. Wang, Jeffrey D. Warden, Johnny R. Wood

Agenda Item 7(b)(15) - Villarreal, Dianne K.: Dianne K. Villarreal

Agenda Item 7(b)(16) - Winn, Daniel Scott: Daniel Scott Winn

Agenda Item 7(b)(17) - Winn, Mark: Mark Edward Winn

Agenda Item 7(b)(18) - Winn's Continuing Education, Inc.: Virgil Thompson, Chad C. Winn, Daniel Scott Winn, Mark Edward Winn

Agenda Item 7(b)(19) - Wyman, Russell W.: Russell W. Wyman

Ms. Gallagher made a motion to approve all the CPE Course Instructor applications listed on Items 7(b)(1)-(19). Mr. Thompson seconded the motion and the motion carried unanimously.

Agenda Item 8 - The Board authorizes the Executive Director to designate individuals to approve the agency's payments and USPS or SPRS documents. This authorization will be effective the same day the Executive Director assumes the position of Executive Director. Ms. Hill explained Item 8 authorizes the individual in the position of Executive Director to designate using the approved form the specific individual within the agency that shall be authorized to make the agency's payments and fund releases within the states accounting and payroll systems.

Mr. Thompson made a motion to authorize the individual in the position of Executive Director to designate individuals to approve the agency's payment, USPS, and SPRS documents.

Mr. Jalnos seconded the motion and the motion carried unanimously.

Agenda Item 9 - Audit Committee Report – Ed Thompson, Chair

Mr. Thompson directed the Board to the audit findings from the Comptroller of Public Accounts for FY2014.

Agenda Item 9(a) - Review of final report on post payment audit findings for FY2014 from the Comptroller of Public Accounts.

Mr. Thompson noted the review of the final report by the Comptroller of Public Accounts and the successful findings.

Mr. Jalnos made a motion to approve the review of the final report on post payment audit findings for FY2014 from the Comptroller of Public Accounts.

Mr. Guerra seconded the motion and the motion carried unanimously.

#### Agenda Item 10 - Examination Department Report – Lisa Hill

Ms. Hill addressed the Board regarding examination statistics.

##### Agenda Item 10(a) - Examination statistics

Ms. Hill notes that from September to present, the Board has given 439 Journey Plumber License examinations and 303 Tradesman's Plumber-Limited licensee examinations. Ms. Hill stated the pass rate for the examinations continued to hold steady at 70.5%. Ms. Hill added that the plumbers appear to be so busy they may not be taking the time to study. Ms. Hill commented that the #1 item listed on the exam comment sheets continues to be "I wish I had studied more."

#### Agenda Item 11 - Enforcement Department Report – Stephen P. Davis

Mr. Davis addressed the Board regarding enforcement matters handled by both the Board's field investigators and staff members. Mr. Davis also noted the importance of contacting members of the community and stressed staff have been active in performing education seminars.

##### Agenda Item 11(a) - Enforcement statistics

Mr. Davis directed the Board to the Field Activity Report in the Board materials. Mr. Davis noted that 2,117 individuals were contacted, 35 unlicensed or unregistered persons were contacted, 2628 compliance checks were performed, 755 unlicensed or unregistered persons were found, 49 violations were found during compliance checks, 74 notices of non-compliance were issued, 198 investigations were conducted, including monitoring 9 Continuing Education classes.

#### Agenda Item 12 - Financial Department Report – Lisa G. Hill

Ms. Hill noted her efforts to get the Financial Department fully staffed and indicated her efforts are ongoing.

#### Agenda Item 13 - Executive Director's Report – Lisa G. Hill

##### Agenda Item 13(a) - Staff additions

Ms. Hill noted one position was recently filled. Ms. Hill noted the agency's turnover rate as a whole remained low in comparison to the State's overall turnover rate.

##### Agenda Item 13(b) - Health Professions Council update

Ms. Hill stated that staff from the seven agency's that make up the HPC group were here for about a week performing the testing of the enhancements to the shared regulatory database for the group. Ms. Hill added that some of the enhancements look promising.

Agenda Item 13(c) - Report on State Office of Risk Management (SORM) visit Ms. Hill stated SORM gave positive feedback regarding their walkthrough of the agency and the agency's training plans.

Ms. Hill added that some of our practices were so well received that SORM plans to advise other agencies of the TSBPE practices.

##### Agenda Item 13(d) - Customer service survey update.



Ms. Hill noted the good feedback the agency received regarding customer service and in general staff knowledge. She explained that it will soon be placed on our website.

Agenda Item 13(e) - Current statistics on licenses and registrations.

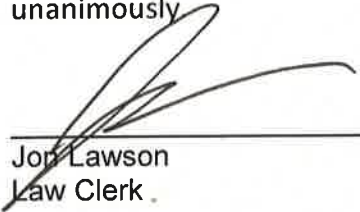
Ms. Hill noted the agency currently has approximately 73,000 licenses and registrations in a current and/ or renewable status. In addition, there are also approximately 14,279 current and renewable endorsements.

Agenda Item 14 - Date, location and time of future Board meetings


The Chair stated the next Board meeting will be July 11, 2016 at 9 a.m. at the Board's office in Austin, Texas.

Agenda Item 15 - Adjourn

Ms. Gallagher gave a motion to adjourn the meeting. Mr. Guerra seconded the motion and the motion carried unanimously

  
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Jon Lawson  
Law Clerk

Minutes adopted by the Board on this 1st day of August, 2016.

  
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Ricardo J. Guerra, P.E., Secretary  
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Julio Cerda, Chair